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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF UTAH**

JILL McCLUSKEY and MATTHEW
McCLUSKEY, individually and for and on
behalf of LAUREN McCLUSKEY, deceased,

Plaintiffs,

v.

STATE OF UTAH (including the University
of Utah, University Department of Housing
and Residential Education and University
Department of Public Safety), DALE
BROPHY, KORY NEWBOLD, KAYLA
DALLOF, MIGUEL DERAS, TODD
JUSTENSEN, HEATHER McCARTHY,
EMILY THOMPSON and JANE/JOHN
DOES 1-10.

Defendants.

**MOTION FOR DISMISSAL WITH
PREJUDICE**

Case No. 2:19-cv-00449-HCN-PMW

District Judge: Howard C. Nielson, Jr.

Magistrate Judge: Jared C. Bennett

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiffs Jill McCluskey and
Matthew McCluskey and Defendants the State of Utah, Kayla Dallof, Todd Justesen, Heather

McCarthy, and Emily Thompson hereby stipulate to the dismissal, with prejudice, of the claims asserted against the aforementioned defendants, as the parties have settled the dispute, with each party to pay its own attorney fees and costs.

The McCluskeys requested stipulations from counsel for Dale Brophy, Kory Newbold, and Miguel Deras to dismiss the McCluskeys' claims against Brophy, Newbold, and Deras on three occasions (March 22nd, March 24th, and March 30th). Jeremy Jones—counsel for Brophy, Newbold, and Deras—finally responded to the third request, today. Mr. Jones indicated that the attorney overseeing this matter cannot be reached at this time, and Mr. Jones does not have the clients' authorization to stipulate to this dismissal.

Although Brophy, Newbold, and Deras have not stipulated to the dismissal of the McCluskeys claims against them, the court may dismiss the claims under rule 41(a)(2). The McCluskeys request that the court order those claims dismissed because the parties' settlement agreement was intended to resolve all claims in this matter and none of the defendants have asserted any counterclaims that would warrant continuing this litigation.

This motion is being filed before obtaining stipulations from Brophy, Newbold, and Deras because the parties' settlement agreement provided that the McCluskeys would dismiss their claims no later than 15 days after payment of the settlement amount. That deadline is today.

DATED this 30th day of March, 2021.

ZIMMERMAN BOOHER

/s/ Dick J. Baldwin

Christine M. Durham

Frederic J. Voros

Dick J. Baldwin

PARKER & McCONKIE

/s/ James W. McConkie

James W. McConkie

Bradley H. Parker

W. Alexander Evans

STIPULATED:

/s/ Joni J. Jones

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Darin B. Goff

Rachel George Terry

Office of the Utah Attorney General

Attorneys for Defendants University of Utah, Todd Justesen, Heather McCarthy, and Emily Thompson

(Signed by Dick Baldwin with email permission of Joni J. Jones)

/s/ Alain C. Balmanno

Alain C. Balmanno

Christine Hashimoto

Office of the Utah Attorney General

Attorneys for Defendant Kayla Dallof

(Signed by Dick Baldwin with email permission of Alain C. Balmanno)

Certificate of Service

This is to certify that on the 30th day of March, 2021, I caused the foregoing to be served on the following via CM/ECF:

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